

MANDATESDNY/WPNY
08-CV-9078
KARAS

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
 Thurgood Marshall U.S. Courthouse at Foley Square 40 Centre Street, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENTDocket Number(s): 08-5618-cv

Caption [use short title]

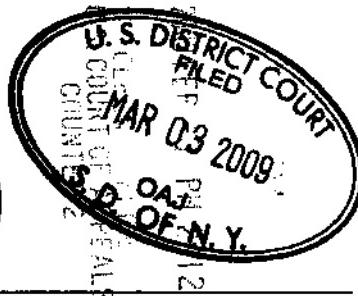
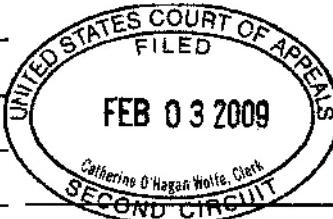
International Business Machines Corporation

Motion for: dismissal of the appeal pursuant to FRAP 42(b)

v.

Papermaster

Set forth below precise, complete statement of relief sought:
Appellant Mark D. Papermaster respectfully requests that this Court
dismiss the appeal, pursuant to FRAP 42(b), on terms agreed to by
the parties in the accompanying stipulation.

MOVING PARTY: Mark D. PapermasterOPPOSING PARTY: International Business Machines Corporation

- Plaintiff Defendant
 Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Caitlin J. Halligan

[name of attorney, with firm, address, phone number and e-mail]
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OPPOSING ATTORNEY [Name]: Evan R. Chesler

[name of attorney, with firm, address, phone number and e-mail]
 Cravath, Swaine & Moore LLP
 Worldwide Plaza
 825 Eighth Avenue, New York, NY 10019
 (212) 474-1243
 echesler@cravath.com

Court-Judge/Agency appealed from: United States District Court for the Southern District of New York - Honorable Kenneth M. Karas

Please check appropriate boxes:

Has consent of opposing counsel:

- A. been sought? Yes No
 B. been obtained? Yes No

Is oral argument requested? Yes No
 (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? Yes No
 If yes, enter date _____

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:Has request for relief been made below? Yes NoHas this relief been previously sought
in this Court? Yes No

Requested return date and explanation of emergency:

Signature of Moving Attorney:

Date: February 2, 2009Has service been effected?
[Attach proof of service] Yes No**ORDER**

IT IS HEREBY ORDERED that the appeal is dismissed with prejudice. Each party shall bear its own costs and attorney's fees associated with the appeal.

FOR THE COURT:
 Catherine O'Hagan Wolfe, Clerk
 by Joy Fallek
 Joy Fallek, Administrative Attorney

02/04/09
 Date



A TRUE COPY
 Catherine O'Hagan Wolfe, Clerk
 by Margaret Lain
 DEPUTY CLERK

CERTIFIED:

MAR 2 2009

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
THURGOOD MARSHALL U.S. COURT HOUSE
40 FOLEY SQUARE, NEW YORK, N.Y. 10007

Dennis Jacobs
CHIEF JUDGE

Catherine O'Hagan Wolfe
CLERK OF COURT

Date: 3/2/09 DC Docket Number: 08-cv-9078
Docket Number: 08-5618-cv DC: SDNY (WHITE PLAINS)
Short Title: International Business Machines
Corporation v. Papermaster DC Judge: Honorable Kenneth Karas

ACKNOWLEDGMENT RECEIPT

To: Appeals Clerk

Kindly endorse the acknowledgment receipt in the line below and return to the Court of Appeals for the Second Circuit.

MANDATE ACKNOWLEDGMENT = Transfer of Jurisdiction

The mandate consists of the items indicated below:

- Clerk Order dated 02/03/2009
 Court Order dated <mm/dd/yy>
 Default Order <mm/dd/yy>
 So-Ordered Stipulation <mm/dd/yy>
 Summary Order dated <mm/dd/yy>
 Opinion and Judgment dated <mm/dd/yy>
 Statement of Costs dated <mm/dd/yy>

CERTIFIED ACKNOWLEDGMENT = For Informational Purposes

- Clerk Order dated <mm/dd/yy>
 Court Order dated <mm/dd/yy>
 So-Ordered Stipulation <mm/dd/yy>

Received by: _____
(Origination Court or Agency)
Date: _____